

CALIFORNIA COASTAL COMMISSION

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January 23, 2020

F17b**TO: COMMISSIONERS AND INTERESTED PERSONS****FROM: KARL SCHWING, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT
DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO COAST DISTRICT
CORT HITCHENS, COASTAL PLANNER, SAN DIEGO COAST DISTRICT****SUBJECT: STAFF RECOMMENDATION ON CITY OF ENCINITAS LOCAL COASTAL
PROGRAM AMENDMENT NO. LCP-6-ENC-19-0150-2 (Minor
Subdivisions/Lot Line Adjustments) for Commission Meeting of February 12-14,
2020**

SYNOPSIS

The subject LCP implementation plan amendment was submitted and filed as complete on October 21, 2019. Pursuant to Section 30513 of the Coastal Act, the Commission must act on IP amendments within 60 working days of filing. However, as provided for in the Commission's regulations, a one-year time extension was granted by the Commission for the amendment request at the December 2019 hearing. As such, the last date for Commission action on this item is January 21, 2021.

This amendment request involves only revisions to the City's certified implementation plan and the City's submittal included only the one item. In addition to this amendment, there are currently three other pending LCP items from the City of Encinitas: LCPA No. LCP-6-ENC-19-0158-3 (Pedestrian/Bicycle Connectivity), LCPA No. LCP-6-ENC-19-0159-3 (5th Street Boundary Adjustment), and LCPA No. LCP-6-ENC-19-0160-3 (Specialized Housing/Reasonable Accommodations/Single Room Occupancy). These three LCPA items were submitted on December 23, 2019; it is likely that Commission review will be presented or time extensions will be requested for these three LCPA submittals at the March 2020 Commission hearing.

SUMMARY OF AMENDMENT REQUEST

The City of Encinitas proposes to amend Chapter 24.60 (Minor Subdivision – Tentative Parcel Map) and Chapter 24.70 (Lot Line Adjustments) of the City's Municipal Code, part of the certified IP, to improve the efficiency of the development review process and for compliance with the Subdivision Map Act. Specifically, this amendment will remove the requirements for lot consolidations from Section 24.60.050.A1 (Parcel Map Waiver), and will add/merge the requirements into Section 24.70.010.A (Lot Line Adjustment Requirements), ultimately removing the requirement for a Parcel Map Waiver to

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merge/consolidate lots and requiring a lot line adjustment in order to merge/consolidate lots. The proposed amendment consists of text changes only; the revisions will apply citywide. The amendment does not affect coastal development permit (CDP) requirements and CDPs will continue to be required for lot consolidations or mergers within the Coastal Zone.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending approval of the proposed LCP amendment as submitted. The Commission may reject IP amendments only if the amendment would be inconsistent with the certified Land Use Plan (LUP) or render the IP inadequate to carry out the LUP. The proposed IP Amendment is consistent with the goals and policies of the LUP in that the amendment allows for lot line adjustments consistent with the Subdivision Map Act. Rather than obtaining a parcel map waiver to accomplish a lot consolidation or merger, the proposed IP amendment transfers and slightly modifies the language of the existing lot consolidation process into Chapter 24.70 (Lot Line Adjustments) to improve the efficiency of the review process. Furthermore, the amendment would not affect the requirement to obtain a Coastal Development Permit (CDP) for lot consolidations proposed within the Coastal Zone. Therefore, no adverse impacts to coastal resources are anticipated.

The appropriate resolutions and motions begin on Page 3. The findings for approval of the Implementation Plan Amendment as submitted begin on Page 4.

ADDITIONAL INFORMATION

Further information on the City of Encinitas LCP amendment No. LCP-6-ENC-19-0150-2 may be obtained from **Cort Hitchens**, Coastal Planner, at (619) 767-2370.

EXHIBITS

[Exhibit 1 – Ordinance No. 2019-10](#)

[Exhibit 2 – Proposed Text Changes in Strikeout/Underline](#)

PART I. OVERVIEW

A. LCP HISTORY

On November 17, 1994, the Commission approved, with suggested modifications, the City of Encinitas' LCP (both LUP and implementing ordinances). The City accepted the suggested modifications; and, on May 15, 1995, began issuing CDPs for those areas of the City within the Coastal Zone. The Commission has certified many amendments to the City's LCP since 1995.

B. STANDARD OF REVIEW

Pursuant to Section 30513 of the Coastal Act, the Commission may only reject zoning ordinances or other implementing actions, as well as their amendments, on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. The Commission shall take action by a majority vote of the Commissioners present.

C. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires local governments to provide the public with the maximum amount of opportunities to participate in the development of the LCP amendment prior to submittal to the Commission for review. The City has held Planning Commission and City Council meetings with regard to the subject amendment request. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided just prior to each resolution.

- I. MOTION:** *I move that the Commission reject the City of Encinitas Implementation Program Amendment No. LCP-6-ENC-19-0150-2 as submitted.*

STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Program Amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO CERTIFY IMPLEMENTATION PROGRAM AMENDMENT
AS SUBMITTED:**

The Commission hereby certifies the Implementation Program Amendment for the City of Encinitas as submitted and adopts the findings set forth below on grounds that the Implementation Program Amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan and certification of the Implementation Program Amendment will meet the requirements of the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program Amendment.

**PART III. FINDINGS FOR APPROVAL OF THE CITY OF ENCINITAS
IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED**

A. AMENDMENT DESCRIPTION

The City of Encinitas has submitted the subject citywide IP amendment in order to transfer the requirements for lot consolidations from Chapter 24.60 to Chapter 24.70. Specifically, through the adoption of Ordinance 2019-10 on August 15, 2019, the City would modify a section of Chapter 24.60 (Minor Subdivision – Tentative Parcel Map) and Chapter 24.70 (Lot Line Adjustments) of the municipal code for review efficiency and compliance with the Subdivision Map Act. Minor subdivisions and lot line adjustments must still comply with the policies of the City’s certified LCP.

B. FINDINGS FOR APPROVAL

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP.

a) Purpose and Intent of the Ordinance

The primary goal of the City’s minor subdivision/lot line adjustment amendment is to improve the efficiency of the review process for lot consolidations and for compliance with the Subdivision Map Act.

b) Major Provisions of the Ordinance

The major provisions of the proposed ordinance would achieve the following goals: (1) improve efficiency of the review process for lot consolidations; and (2) transfer the requirements for lot consolidations from the Minor Subdivision – Tentative Parcel Map chapter to the Lot Line Adjustments chapter of the City’s municipal code.

c) Adequacy of the Ordinance to Implement the Certified LUP Segments

The Commission can only reject the proposed IP amendments where it can be shown that the amendment would be inconsistent with the certified LUP or render the IP inadequate to carry out the LUP. The most applicable LUP standards are as follows:

Resource Management Element

Policy 10.6 states, in part: The City shall not approve subdivisions or boundary line adjustments which would allow increased impacts from development in wetlands or wetland buffers.

The proposed IP amendment is consistent with the goals and policies of the certified LUP. The amendment ultimately removes the requirement for a Parcel Map Waiver to merge/consolidate lots, and requires a lot line adjustment in order to merge/consolidate lots. This procedural change is intended to improve the efficiency of the review process for recording lot consolidations, and will not affect the requirement to obtain a Coastal Development Permit (CDP) for lot consolidations proposed within the Coastal Zone.¹ Therefore, all LCP provisions, including resource protection measures, will continue to be implemented. Thus, the proposed IP amendment is consistent with the goals and policies of the certified LUP and is adequate to carry it out. The LCP amendment can therefore be approved as submitted.

PART IV. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 21080.9 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP submission.

At the local level, the City found that the ordinance revisions were exempt from environmental review pursuant to the CEQA Guidelines Section 15378(b)(5) which exempts organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment. Environmental review will be considered for any resulting future projects at the time of development.

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform with CEQA provisions. In this particular case, the LCP amendment as proposed will not have

¹ Under *La Fe, Inc. v. Los Angeles County* ((1999) 73 Cal.App.4th 231), a lot line adjustment is development as defined by the Coastal Act (Pub. Resources Code, § 30106), and therefore requires a coastal development permit.

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any significant adverse effects on the environment and no significant coastal resource impacts are anticipated. The proposed amendment would only clarify the language of the existing lot consolidation process and relocate the regulatory review into Chapter 24.70 (Lot Line Adjustments) to improve the efficiency of the review process for recording lot consolidations. Furthermore, the amendment would not affect the requirement to obtain a Coastal Development Permit (CDP) for lot consolidations proposed within the Coastal Zone. Therefore, the Commission finds that the subject IP amendment as proposed conforms to CEQA provisions.

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